IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 32892 of 2006(N)

PETITIONER:

MARY V.V.,
(EXT.T.NO.1096, ACCOUNTANT SPECIAL GRADE,
HIL), RESIDING AT 'AMBAT', MANKUZHY ROAD,
EDAPPALLY TOLL, KOCHI-682 024.

BY ADV. SRI.ANTONY M. AMBAT

RESPONDENTS:

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1. HINDUSTAN INSECTICIDES LTD.,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
SCOPE COMPLEX, LODI ROAD, NEW DELHI-110 003.

2. THE GENERAL MANAGER,
HIL, UDYOGAMANDAL-683 501.

BY SC SHRI. A.K.JAYASANKAR NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No.32892 OF 2006 N
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Dated this the 14th December, 2006

J U D G M E N T

The petitioner retired from the service of the 1st respondent while working as Accountant Special Grade. She has approached this Court for a declaration that clause 12 of Ext. P2 which says that payment of revised salary will be made with effect from 1-1-2002 and that arrears with effect from 1-4-1997 upto 31-12-2001 shall become payable only when the Company generates adequate surplus resources through improved productivity and profitability (by way of profit after tax) to the satisfaction of the Government and after obtaining prior approval of Government, is ultra vires. She has also sought for a direction to respondents 1 and 2 to disburse forthwith the differential amount of gratuity and other admissible terminal benefits based on the revised pay to the petitioner with interest.

2. I have heard counsel for the petitioner and counsel for the respondents.

3. It is admitted position that the point for

consideration is covered by the judgment of this Court vide Exts. P3 and P4. In Ext. P3 a learned Judge of this Court took the view that the aforesaid provision is ultra vires and that the retired employees shall not be denied the difference in amount on account of revision of terminal benefits. Ext. P3 judgment was affirmed by the Division Bench vide Ext. P4.

In the result, the writ petition is allowed. There shall be an order directing the respondents to disburse the differential amount of gratuity and other admissible terminal benefits based on the revised pay. The petitioner will be entitled to interest on the amount of gratuity at the statutory rate. The amount shall be paid within three months on the petitioner producing a copy of the judgment.

K.K. DENESAN
JUDGE

jan/